

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #40-09

Readington Township, Hunterdon County

WHEREAS, Readington Township, Hunterdon County, petitioned the Council on Affordable Housing (COAH) for third round substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation on December 30, 2008; and

WHEREAS, Readington's petition was deemed complete on January 26, 2009; and

WHEREAS, Readington Township published notice of its petition in the *Hunterdon County Democrat* and the *Star Ledger* on January 27, 2009, which are newspapers of general circulation within the county, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5; and

WHEREAS, during the 45-day objection period, which ended March 13, 2009, COAH received an objection from Art Bernard, P.P. of Bernard & Nebenzahl, LLC on behalf of Ryland Developers, LLC (Ryland); and

WHEREAS, a COAH Pre-mediation Report Requesting Additional Information was issued on April 29, 2009;

WHEREAS, mediation commenced on July 8, 2009; and

WHEREAS, mediation was concluded on July 8, 2009; and

WHEREAS, a Mediation Report was issued on August 24, 2009, as part of the Township's Compliance Report; and

WHEREAS, the mediation in this matter did not result in a settlement and the mediator does not believe that further mediation before COAH would result in a settlement being reached; and

WHEREAS, the mediator finds that there are not any outstanding issues of material fact which necessitate referral to the Office of Administrative Law; and

WHEREAS, Readington Township's fair share plan addresses its 394-unit prior round obligation and 192-unit projected growth share obligation pursuant to Appendix F of N.J.A.C. 5:97; and

WHEREAS, Readington Township does not have a rehabilitation obligation; and

WHEREAS, Readington Township's plan proposes to address its 394-unit prior round obligation entirely with credits for completed and transferred units: 15 credits and 15 rental bonuses for group home bedrooms created with Allies and ARC; six special needs credits and six rental bonuses for completed bedrooms in the Anderson House; 68 credits for completed family sale units in the Lake Cushetunk Woods inclusionary development; 14 credits for completed family sale units in the Whitehouse Estates inclusionary development; one credit and one rental bonus for a completed family rental unit known as Calio House; four credits for four completed age-restricted ECHO units; 60 credits and 16 rental bonuses for completed age-restricted rental units at the Mirota development; 57 RCA credits through a completed RCA with Bound Brook; 116 RCA credits through a completed RCA with Carteret; and 15 RCA credits through a completed RCA with Manville, for a total of 394 credits and bonuses; and

WHEREAS, Readington Township's plan proposes to address a portion of its 192-unit projected growth share obligation with 16 credits for surplus family sale units at Lake Cushetunk Woods inclusionary development, and 12 credits and three rental bonuses for group home bedrooms created with Allies and ARC, for a total of 31 credits and bonuses; and

WHEREAS, Readington Township's plan proposes to address its remaining 161-unit projected growth share obligation with an additional 14 proposed group home bedrooms in multiple buildings with Allies; a proposed 10-unit Market to Affordable Rental Program; a 10-unit Extension of Expiring Controls program for Whitehouse Estates; 12 approved family rental units at the Winfield Management development; a proposed 48-unit expansion to the existing Mirota age-restricted rental 100% Affordable Development; a proposed four-unit municipally sponsored 100 percent affordable housing project known as the Cal-Lime site, for which the

Township is requesting two rental bonuses; and a future proposed 32-unit municipally sponsored 100 percent affordable housing project, for which the Township is requesting 32 rental bonuses; and

WHEREAS, pursuant to N.J.A.C. 5:97-3.2(a)4, Readington has provided implementation schedules that set forth detailed timetables that demonstrate a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7 for the proposed Mirota expansion project, Cal-Lime municipally sponsored 100 percent affordable housing project, and the 32-unit future municipally sponsored 100 percent affordable housing project; and

WHEREAS, pursuant to N.J.A.C. 5:97-3.6(a)3ii., in the event the municipally sponsored projects are not constructed in accordance with the construction schedule, Readington may lose the rental bonuses; and

WHEREAS, Readington Township has committed to acquiring a site for its 32-unit municipally sponsored project by December 2009 and to accelerating the development of the site; and

WHEREAS, Readington Township has informed COAH staff that negotiations for the acquisition of the site have proceeded and that a contract of sale is anticipated in October; and

WHEREAS, Readington Township shall submit documentation of ownership and demonstration of site suitability to COAH once the site for the 32-unit municipally sponsored project is acquired; and

WHEREAS, Readington Township's plan results in a three-unit surplus from the proposed future municipally sponsored project; and

WHEREAS, on April 20, 2009, Readington Township submitted a waiver from N.J.A.C. 5:97-6.14(b)2 for the 10-unit extension of expiring controls program at Whitehouse Estates that is addressing the projected growth share obligation; and

WHEREAS, the waiver seeks relief from the requirement to have a written commitment from the owner to extend the affordability controls; and

WHEREAS, instead, Readington Township is proposing to operate it as a program that provides a subsidy to owners that extend the affordability controls for 30 years; and

WHEREAS, the affordable units at Whitehouse Estates are sale units and were completed between 1987 to 1989; and

WHEREAS, the affordable units have 20-year controls on affordability and will expire during the third round period; and

WHEREAS, Readington Township will offer the current homeowner a subsidy and may also provide rehabilitation funds to the homeowner to encourage participation; and

WHEREAS, Readington Township has moved to extend the controls on two of the units at Whitehouse Estates and is moving ahead on a third unit; and

WHEREAS, the waiver meets the requirements of N.J.A.C. 5:96-15.2(a) in that it fosters the production of affordable housing by supporting the preservation of affordable housing; and

WHEREAS, the waiver fosters the intent, if not the letter of the rules, in that the program's popularity and the Township's deep subsidies ensure that the program creates a realistic opportunity for affordable housing; and

WHEREAS, Readington Township's Fair Share Plan provides a mix of affordable housing options by including family, age-restricted and special needs housing that is available for sale and rent; and

WHEREAS, a COAH task force met on August 24, 2009, and recommends approval of the waiver to allow the Township to receive up front credit for the 10-unit extension of expiring controls program; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on August 24, 2009, COAH issued a Mediation Report and a Compliance Report (Exhibit A) recommending approval of Readington Township's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report and Mediation Report pursuant to N.J.A.C. 5:96-6.2(b), and COAH received comments from Darren J. Leotti, Esq., of the firm Mauro, Savo, Camerino & Grant, P.A on behalf of Ryland that have been responded to in a separate report dated October 5, 2009 (Exhibit B);

WHEREAS, the comments received from Ryland do not alter the COAH Compliance Report; and

WHEREAS, after the 14-day comment period on October 7, 2009, COAH received comments from Robert A. Kasuba, Esq., of Sills, Cummis & Gross, on behalf of Valley National Bank (VNB); and

WHEREAS, VNB maintains that Readington's Housing Element and Fair Share Plan does not create a realistic opportunity to satisfy its affordable housing obligation; and

WHEREAS, VNB's comments are limited to the economic feasibility of the Township's plan and that the Township has not provided site suitability information pursuant to N.J.A.C. 5:97-3.13 for its proposed 32-unit municipally sponsored affordable housing project; and

WHEREAS, VNB maintains that COAH should require Readington to consider an inclusionary redevelopment on the Interstate Ironworks site, in which VNB is the mortgagee of the property; and

WHEREAS, N.J.A.C. 5:97-3.2(a)4 allows municipalities to provide a implementation schedule for phased projects that sets forth a detailed timetable that demonstrates a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7, which includes a demonstration of the suitability of the site; and

WHEREAS, COAH will review the site suitability information once the site for the 32-unit municipally sponsored project is acquired by the Township; and

WHEREAS, VNB's comments on the economic feasibility have been responded to by COAH in the response to Ryland's comments in the separate report dated October 5, 2009; and

WHEREAS, therefore, the comments received from VNB do not alter the COAH Compliance Report.

NOW THEREFORE BE IT RESOLVED that, for the reasons set forth above, Readington Township's waiver request from N.J.A.C. 5:97-6.14(b)2 to allow the Township to receive up front credit for the 10-unit extension of expiring controls program is granted; and

BE IT FURTHER RESOLVED the Housing Element and Fair Share Plan submitted by Readington Township comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(a) and after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Readington Township; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(e), Readington Township shall adopt all implementing Fair Share Ordinances within 45 days of the grant of substantive certification; and

BE IT FURTHER RESOLVED that if Readington Township fails to timely adopt its Fair Share Ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Readington shall submit all Fair Share Ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that the agreement between Allies and Readington must be executed within 45 days after the grant of substantive certification and submitted to COAH; and

BE IT FURTHER RESOLVED that Readington shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Readington's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Readington's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Readington and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the Township is not adhering to its implementation schedules pursuant to N.J.A.C. 5:97-3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, COAH may direct Readington Township to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Readington shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Readington's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Readington Township to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on October 14, 2009

A handwritten signature in black ink, reading "Renee Reiss". The signature is written in a cursive, flowing style. The first name "Renee" is written with a large, looping capital "R", and the last name "Reiss" follows in a similar cursive script.

Renee Reiss, Secretary
Council on Affordable Housing



***Council on Affordable Housing
Compliance Report
August 24, 2009***



Municipality: Readington Township
County: Hunterdon County

COAH Region: 3
Planning Area: 2, 3, 4, 4B, 5
Special Resource Area: None

Housing Element and Fair Share Plan Adopted: 11/24/2008
Petition for 3rd Round Substantive Certification: 12/30/2008
Completeness Determination: 1/26/2009
Date of Publication: 1/27/2009

Objections Received: Yes
1. Ryland Developers, LLC
Mediation Commenced: July 8, 2009
Mediation Concluded: July 8, 2009

Petition Includes:
VLA: No
GPA: No
Waiver: Yes **Section:** N.J.A.C. 5:97-6.14(b)2

Date of Site Visit: April 21, 2009

History of Approvals:

	COAH	JOC	N/A
First Round:	6/26/1989		
Second Round:	5/7/1997		
Extended Certification:	5/11/2005		

Plan Preparer: Kathleen Grady, P.P., LEED AP - Clarke Caton Hintz
Municipal Housing Liaison: Diane Clapp, Housing Coordinator

Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	0
Prior Round Obligation	394
Projected Growth Share Obligation	192

ACTUAL GROWTH and GROWTH SHARE through September 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
78	15.6	459	28.7	44 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 0 units				
NEW CONSTRUCTION:				
Prior Round: 394 units				
Credits	Post-1986	356		356
Prior Round Bonuses	Rental	38		38
Prior Round Subtotal				394
Growth Share: 192 units				
Credits	Post-1986 (including 16-unit surplus)	28		28
Proposed Mechanism(s)	Supportive/Special Needs Housing		14	14
	Extensions of Controls		10	10
	Market to Affordable Rental Program		10	10
	Municipally Sponsored 100 percent affordable projects		96	96
Bonuses	Rental	3	34	37
Growth Share Subtotal				195
Surplus				+3

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Readington's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Readington Township does not have a rehabilitation share.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Readington has a prior round obligation of 394 units.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Readington has a residential projection of 908 units and a non-residential projection of 159 jobs,

which results in a projected growth share obligation of 192 affordable units². The Township has not subtracted any second round exclusions.

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	0
Prior Round Obligation	394
Projected Growth Share Obligation	192

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Readington Township's Fair Share Plan, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

As indicated in Appendix B of N.J.A.C. 5:97, Readington Township does not have a rehabilitation obligation.

B. Plan to Address Prior Round Obligation

Prior Round Credits

Readington is addressing its prior round obligation with 394 post-1986 credits, totaling 356 credits and 38 bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

² Pursuant to N.J.A.C. 5:97-2.2(d), Readington's residential projection of 908 is divided by 5 to yield 181.6 units and the nonresidential projection of 159 jobs is divided by 16 to yield 9.94 units. Readington's total projected growth share is therefore 192 units ($181.6 + 9.94$).

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Allies Inc. group home I	2000	Supportive/Special Needs Housing	2	Rental	2	4
Allies Inc. group home II	2000	Supportive/Special Needs Housing	3	Rental	3	6
ARC group home I	1997	Supportive/Special Needs Housing	3	Rental	3	6
ARC group home II	1998	Supportive/Special Needs Housing	2	Rental	2	4
ARC group home III	2000	Supportive/Special Needs Housing	2	Rental	2	4
ARC group home IV	2003	Supportive/Special Needs Housing	3	Rental	3	6
Anderson House	1995	Supportive/Special Needs Housing	6	Rental	6	12
Lake Cushetunk Woods Inclusionary Development	1995	Family For-Sale	68	-	-	68
Whitehouse Estates Inclusionary Development	1988	Family For-Sale	14	-	-	14
Calio House	1992	Family Rental	1	Rental	1	2
ECHO units	1992	Age-restricted Rental	4	-	-	4
Mirota (Lutheran Social Ministries)	1998	Age-restricted Rental	60	Rental	16	76
Bound Brook RCA	2003	RCA	57	-	-	57
Carteret RCA	1997	RCA	116	-	-	116
Manville RCA	2003	RCA	15	-	-	15
TOTALS			356		38	394

Proposed Affordable Housing Mechanisms

Readington Township is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its Prior Round Obligation.

Prior Round Obligation Parameters

Readington Township has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:³ 99 Units

Development/Project Name	Type of Affordable Unit	# Units
Allies Inc. group homes	Supportive/Special Needs	5
ARC group homes	Supportive/Special Needs	10
Anderson House	Supportive/Special Needs	6
Calio House	Family Rentals	1
ECHO units	Age-restricted Rental	4
Mirota	Age-restricted Rental	60
Carteret RCA	Rental RCA	28
TOTAL		114

Prior Round Age-Restricted Maximum:⁴ 72 Units

Development/Project Name	Type of Affordable Unit	# Units
ECHO	Age-restricted Rental	4
Mirota	Age-restricted Rental	60
TOTAL		64

³ Rental Obligation= .25 (Prior Round Obligation-Prior Cycle Credits) or .25(394) = 98.5 or 99 N.J.A.C. 5:97-3.10(b)1

⁴ Age-Restricted Maximum= .25 (Prior Round Obligation + Rehabilitation Share - Prior Cycle Credits - Rehabilitation Credits -Transferred RCA Units Addressing the Prior Round Obligation) or .25(394+0-0-0-188) = 51.5 or 51 units. N.J.A.C. 5:97-3.10(c)1. However, The Township received a waiver on October 23, 1996 from the age-restricted formula, which eliminated the rehabilitation component in the formula. Pursuant to N.J.A.C. 5:97-4.1(c), COAH will honor the number of age-restricted credits included in the previously certified plan if the mechanism that were included in that certification still presents a realistic opportunity. Therefore, Readington's age-restricted cap is 72.

Regional Contribution Agreement (RCA) Maximum:⁵ 197 Units

Receiving Municipality(s)	Type of Affordable Unit	# Units
Bound Brook RCA	RCA	57
Carteret RCA	RCA (28 Rentals)	116
Manville RCA	RCA	15
TOTAL		188

Prior Round Rental Bonus Maximum:⁶ 99 Units

Development/Project Name	Type of Bonus	# Bonuses
Allies Inc. group homes	Rental	5
ARC group homes	Rental	10
Anderson House	Rental	6
Calio House	Rental	1
Mirota	Age-Restricted Rental	16
TOTAL		38

C. Plan to Address Projected Growth Share

Growth Share Credits

Readington is addressing a portion of the projected growth share obligation with 28 credits and three rental bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

⁵ RCA Maximum: $.50(\text{Prior Round Obligation} + \text{Rehabilitation Share} - \text{Prior Cycle Credits} - \text{Rehabilitation Credits})$ or $.50(394+0-0-0) = 197$ N.J.A.C. 5:97-3.10(d)1

⁶ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation or 99 N.J.A.C. 5:97-3.5

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Lake Cushetunk Woods Inclusionary Development surplus units ⁷	1995	Family For-Sale	16	-	-	16
Allies group home III	2007	Supportive/Special Needs	2	Rental	.50	2.50
Allies group home IV	2007	Supportive/Special Needs	2	Rental	.50	2.50
Allies group home V	2007	Supportive/Special Needs	2	Rental	.50	2.50
Allies group home VI	2007	Supportive/Special Needs	2	Rental	.50	2.50
ARC group home V	2008	Supportive/Special Needs	2	Rental	.50	2.50
ARC group home VI	2008	Supportive/Special Needs	2	Rental	.50	2.50
TOTALS			28		3	31

Proposed Affordable Housing Mechanisms

The Township proposes to address its remaining 161-unit obligation through the following mechanisms:

Supportive and Special Needs Housing-Anderson House

Readington is proposing to provide a new seven-bedroom Anderson House transitional living facility on Route 523 in the Township. Anderson House plans to demolish their existing facility (no prior COAH credit) and construct a new facility within two to three years. The facility will be licensed by the NJ Department of Human Services, Division of Additional Services as a Residential Substance Abuse Treatment Facility. The Township states that it will

⁷ The controls on affordability are for 30 years. Pursuant to N.J.A.C. 5:97-4.3(g), the controls on affordability are in place through 2025 for the Lake Cushetunk Woods units.

provide Anderson House with \$35,000 per bedroom, for a total of \$245,000. Readington has submitted an agreement between the Township and Anderson House committing to the construction and operation of the facility, a pro-forma and a construction schedule. The Township is also requesting one rental bonus for the facility (4 bedrooms x .25 per bedroom). However, COAH no longer provides credit for new transitional living facilities. **[0 Supportive/Special Needs bedrooms]**

Supportive and Special Needs Housing-Allies

Pursuant to N.J.A.C. 5:97-6.10, Readington is proposing to create up to 10 to 15 new group homes, totaling up to 30 group home bedrooms with Allies, Inc., which has already created 13 group home bedrooms in the Township. A draft agreement between Allies, Inc. and Readington has been submitted, which the Township indicates will be executed within 45 days after the grant of substantive certification. The Township states that it will provide Allies with \$35,000 per bedroom, for a total of up to \$1,050,000. Allies anticipates additional funding from the Division of Developmental Disabilities. Pursuant to N.J.A.C. 5:97-3.2(a)4, the Township has provided an implementation schedule that sets forth a detailed timetable that demonstrates a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.10. The Township is anticipating that Allies will create one or two group homes per year beginning in 2010 and continuing through 2018. Supporting documentation is required to be submitted to COAH two years before construction begins. Prior to marketing the affordable units, Readington must submit the required items pursuant to N.J.A.C. 5:97-6.10(f). The Township is currently only requesting credit up front for 14 bedrooms. **[14 Special Needs bedrooms]**

Market to Affordable Program

Readington's Fair Share Plan proposes a 10-unit Market to Affordable Program pursuant to N.J.A.C. 5:97-6.9. The Township will target existing homes that are for sale and rent the units to income-eligible households. Readington has demonstrated that there are sufficient market-rate units within the Township, as documented by a multiple listing service. The Township will provide the minimum subsidy of \$25,000 for each moderate-income unit and \$30,000 for each low-income unit. However, the Township is anticipating the subsidy to be approximately \$99,540 based on recent sales prices. The average sales price for units sold in 2004 and 2005

was \$196,535 for a one-bedroom, \$226,690 for a two-bedroom, and \$253,345 for a three-bedroom. Readington will fund the program with its affordable housing trust fund and may seek funding from outside sources including, but not limited to, the Hunterdon County HOME program and the State's Balanced Housing Program. The Township has submitted a spending plan and a resolution of intent to bond in the event of a shortfall in funding that was adopted on November 24, 2008. The spending plan allocates \$1,350,000 for the program. In addition, the Township is proposing to deed restrict two of the market to affordable units as very-low income units.

Readington has an Affordable Housing Department with an in-house affordable housing administrator, Diane Clapp, who currently administers 98 existing affordable sale units and six existing affordable rental units. The units must be certified to be in sound condition as a result of an inspection performed by a licensed building inspector, be affirmatively marketed, and have the proper affordability controls, low/moderate split and rental pricing. Pursuant to N.J.A.C. 5:97-6.9(e), the Township has submitted a draft operating manual that includes a description of the program procedures and administration in accordance with UHAC. **[10-Unit Market to Affordable Program]**

Extension of Expiring Controls-Whitehouse Estates

Pursuant to N.J.A.C. 5:97-6.14, Readington is proposing to address a portion of its growth share obligation by initiating a voluntary program to extend expiring affordability controls in accordance with UHAC on at least 10 for-sale units at the Whitehouse Estates inclusionary development. Whitehouse Estates contains 276 market rate units and 14 affordable family for-sale units. The affordable units were completed between 1987 to 1989. The affordable units have 20-year controls on affordability and will expire during the third round period. The Township will offer the current homeowner a subsidy and may also provide rehabilitation funds to the homeowner to encourage participation.

The Township has submitted a sample draft agreement that will be executed between the Township and the homeowner and a sample 30-year deed restriction in accordance with UHAC. In addition, Readington has submitted a pro-forma for the program. The Township anticipates offering a \$35,000 per unit subsidy to extend the controls and up to \$25,000 per unit in

rehabilitation funds. Readington will fund the program with its affordable housing trust fund and may seek funding from outside sources including, but not limited to, the Hunterdon County HOME program and the State's Balanced Housing Program. The Township has submitted a spending plan and a resolution of intent to bond in the event of a shortfall in funding that was adopted on November 24, 2008. Readington's program will adhere to N.J.A.C. 5:97-6.14, including having the municipal building inspector either issue a continuing certificate of occupancy for each unit or certify that the unit meets all code standards.

On April 20, 2009, Readington submitted a waiver from N.J.A.C. 5:97-6.14(b)2 for the extensions of expiring controls program. The waiver seeks relief from the requirement to have a written commitment from the owner to extend the affordability controls. Readington indicates that obtaining written consent at this time to extend the controls from the property owners, pursuant to N.J.A.C. 5:97-6.14(b)2, would be an unnecessary hardship for the Township. Instead, Readington is proposing to operate it as a program that provides a subsidy to owners that extend the affordability controls for 30 years. The Township indicates that although the program is still in its initial phases, the program has proven to be quite successful. To date, the Township has moved to extend the controls on two of the units at Whitehouse Estates and is moving ahead on a third unit.

In addition, the Township indicates that the waiver fosters the production of affordable housing by supporting the preservation of affordable housing. Readington states that granting the waiver fosters the intent, if not the letter of the rules in that the program's popularity and the Township's deep subsidies ensures that the program creates a realistic opportunity for affordable housing. The Township further indicates that its plan provides a mix of affordable housing options by including family, age-restricted and special needs housing that is available for sale and rent.

A COAH task force met on August 24, 2009 to discuss the waiver. The task force concluded that the program is realistic based on the fact that two units have already been extended. The task force recommends approval of the waiver from N.J.A.C. 5:97-6.14(b)2 to allow the Township to receive up front credit for the 10-unit extension of expiring controls program. **[10-unit Extension of Expiring Controls Program]**

100 percent Affordable Development – Winfield Management

“D” variance application

On April 16, 2009, the Township Board of Adjustment approved an application for a mixed use building on Block 8, Lot 3, with commercial on the first floor and 12 affordable family rental units on upper stories. The Township intends for one of the units to be deed restricted for a very-low income household. The site is owned by Winfield Management and is located in the Business district at the Route 22-Haver Place intersection. The site is 2.51 acres and there are currently four vacant single family houses located on the property that will be demolished as part of the development.

Pursuant to N.J.A.C. 5:97-3.13, the site is suitable. The site is located in Planning Area 2 and there are no environmental constraints on the property. It has approximately 350 feet of frontage along Route 22 and 300 feet of frontage along Haver Pace. There are commercial and residential uses surrounding the property. The Township is proposing to provide a buffer between the commercial properties and the site. The development will be served by public water and sewer. The Township indicates that the sewer advisory commission has recommended that sewer be provided to the property. The Township anticipates approving a sewer commitment for the site.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, rental pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, Readington must submit the required items pursuant to N.J.A.C. 5:97-6.7(e). **[12 family rental units in a 100 percent affordable development]**

Municipally Sponsored 100 percent Affordable Development – Cal-Lime Site

Pursuant to N.J.A.C. 5:97-6.7, Readington is proposing to construct four affordable family rental units in a 100 percent affordable project on a 1.35 acre property that the Township owns. The Township is also proposing to deed restrict one of the units for very-low income households.

The Cal-Lime site is located along the north side of Route 22, between Island Road and County Line Road (Block 15, Lot 21). Currently there is a single family house and commercial building on the property. After a more thorough analysis, the Township will decide whether to remove the buildings or reconstruct them as part of the affordable housing development.

Readington will fund the project with its affordable housing trust fund and may seek funding from outside sources. The Township has submitted a spending plan and a resolution of intent to bond in the event of a shortfall in funding that was adopted on November 24, 2008. The Township's spending plan allocates \$583,612 for the project.

Pursuant to N.J.A.C. 5:97-3.13, the site is suitable. The site is located in Planning Area 2 and there are no environmental constraints on the property. It has approximately 310 feet of frontage along Route 22 and commercial properties are located to the east and west of the property. The Township is proposing to provide a buffer between the commercial properties and the site. The current buildings on the site are served by on-site septic and wells. Therefore, the Township anticipates the continued use of the systems.

Pursuant to N.J.A.C. 5:97-3.2(a)4, the Township has provided an implementation schedule that sets forth a detailed timetable that demonstrates a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township's mechanism checklist form includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d), with certificates of occupancy being issued in Fall 2018, requiring that supporting documentation be submitted to COAH in Spring 2015, two years before construction begins. The Township anticipates that it will issue a Request for Proposals in Fall 2015 and that the project will receive site plan approvals in Winter 2016.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, rental pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, Readington must submit the required items pursuant to N.J.A.C. 5:97-6.7(e).

Readington is requesting two rental bonuses for the affordable units. The Township should note that in the event the units are not constructed in accordance with its implementation

schedule, Readington may lose the rental bonuses pursuant to N.J.A.C. 5:97-3.6(a)3ii. **[4 family rental units in a municipally sponsored 100 percent affordable development plus 2 rental bonuses]**

Municipally Sponsored 100 percent Affordable Development – Mirola Expansion

Pursuant to N.J.A.C. 5:97-6.7, Readington is currently working with Lutheran Social Ministries (“LSM”) to expand the existing 60-unit affordable age-restricted rental complex for which the Township received credit for its prior round obligation, to provide an additional 48 age-restricted rental units. The 60 affordable units were created in 1998. The Township owns the property and has a 99-year lease with LSM. Readington has submitted a letter of intent from LSM.

The site is located on Van Horne Road (Block 21.05, Lot 2) and is 7.47 acres. The existing building consumes 1.35 acres of the property. The Township indicates that the property size and configuration provides enough area to either expand the existing building or to build a separate building to accommodate the additional 48 units.

Readington’s spending plan allocates \$7,003,344 for the expansion. However, the Township anticipates that LSM will apply for HUD 202 funding or tax credits for the project, so a lesser amount may be provided to LSM or municipal funds may not be needed. The Township has submitted a resolution of intent to bond in the event of a shortfall in funding that was adopted on November 24, 2008.

Pursuant to N.J.A.C. 5:97-3.13, the site is suitable. The site is located in Planning Area 2 and there are no environmental constraints on the property. It has approximately 1,000 feet of frontage along Van Horne Road and there are currently three points of access to the road. Residential uses and open spaces surround the property. The development will be served by public water and sewer. The Township indicates that it has reserved adequate sewer capacity for the expansion.

Pursuant to N.J.A.C. 5:97-3.2(a)4, the Township has provided an implementation schedule that sets forth a detailed timetable that demonstrates a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township’s mechanism checklist form includes a timetable

for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d), with certificates of occupancy being issued in Fall 2013, requiring that supporting documentation be submitted to COAH in Spring 2010, two years before construction begins.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, rental pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, Readington must submit the required items pursuant to N.J.A.C. 5:97-6.7(e). **[48 age-restricted rental units in a municipally sponsored 100 percent affordable development]**

Municipally Sponsored 100 percent Affordable Development

Pursuant to N.J.A.C. 5:97-6.7, Readington is proposing to construct 32 affordable family rental units in a future 100 percent affordable project. The Township is also proposing to deed restrict six of the units for very-low income households.

Readington will fund the project with its affordable housing trust fund. The Township has submitted a spending plan and a resolution of intent to bond in the event of a shortfall in funding that was adopted on November 24, 2008. The Township's spending plan allocates \$4,668,896 for the project. The Township will also pursue outside funding sources, such as Low Income Housing Tax Credits, Balanced Housing, County HOME funds and Federal Home Loan Bank funds.

Pursuant to N.J.A.C. 5:97-3.2(a)4, the Township has provided an implementation schedule that sets forth a detailed timetable that demonstrates a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township's mechanism checklist form includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d), with certificates of occupancy being issued in Summer 2014, requiring supporting documentation to be submitted to COAH in Winter 2011, two years before construction begins.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, rental pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, Readington must submit the required items pursuant to N.J.A.C. 5:97-6.7(e).

Readington is requesting 32 rental bonuses for the affordable units. Pursuant to N.J.A.C. 5:97-3.6(a)3ii, Readington has demonstrated a firm commitment in order to receive the rental bonuses. Readington has committed to acquiring a site by December 2009 and to accelerating the development of the site. Readington must submit documentation of ownership and demonstration of site suitability to COAH once the site is acquired. The Township should note that in the event the units are not constructed in accordance with its implementation schedule, Readington may lose the rental bonuses pursuant to N.J.A.C. 5:97-3.6(a)3ii. COAH will closely monitor the implementation schedule to ensure that the Township acquires the property by the end of the year and conforms to the rest of the implementation schedule. **[32 family rental units in a municipally sponsored 100 percent affordable development plus 32 rental bonuses]**

Proposed Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Anderson House	Supportive/ Special Needs	0	-	-	0
Allies group homes	Supportive/ Special Needs	14	-	-	14
Market to Affordable Rental Program	Family Rental	10	-	-	10
Extensions of Controls-Whitehouse Estates	Family For-sale	10	-	-	10
Winfield Management 100% Affordable Project	Family Rental	12	-	-	12
Mirota Expansion - Municipally Sponsored 100% Affordable Project	Age-restricted Rental	48	-	-	48
Cal-Lime - Municipally Sponsored 100% Affordable Project	Family Rental	4	Rental	2	6
Future site - Municipally Sponsored 100% Affordable Project	Family Rental	32		32	64
TOTALS		130		34	164

Growth Share Parameters

Readington Township has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:⁸ 48 Units

Development/Project Name	Type of Affordable Unit	# Units
Mirota expansion (out of 48 units)	Age-restricted Rental	24
Market to Affordable Program	Family Rental	10
Winfield Management	Family Rental	12
Cal-Lime (out of 4 units)	Family Rental	2
TOTAL		48

Growth Share Family Rental Requirement:⁹ 24 Units

Development/Project Name	Type of Affordable Unit	# Units
Market to Affordable Program	Family Rental	10
Winfield Management	Family Rental	12
Cal-Lime	Family Rental	4
Future site - Municipally Sponsored 100% Affordable	Family Rental	32
TOTAL		58

⁸ Projected Growth Share Rental Obligation: $.25(\text{Projected Growth Share})$ or $.25(192) = 48$ units - N.J.A.C. 5:97-3.10(b)3

⁹ Projected Growth Share Family Rental Requirement: $.5(\text{Projected Growth Share Rental Requirement})$ or $.5(48) = 24$ units N.J.A.C. 5:97-3.4(b)

Growth Share Minimum Family Requirement:¹⁰ 78 Units

Development/Project Name	Type of Affordable Unit	# Units
Lake Cushetunk Woods surplus units	Family For-sale	16
Extensions of Controls-Whitehouse Estates	Family For-sale	10
Market to Affordable Program	Family Rental	10
Winfield Management	Family Rental	12
Cal-Lime	Family Rental	4
Future site - Municipally Sponsored 100% Affordable	Family Rental	32
TOTAL		84

Very Low Income Minimum Requirement:¹¹ 20 Units

Development/Project Name	Type of Affordable Unit	# Units
Allies group homes (existing)	Supportive/ Special Needs	8
Allies group homes (proposed)	Supportive/ Special Needs	14
ARC group homes (existing)	Supportive/ Special Needs	4
Cal-Lime	Family Rental	1
Market to Affordable Program	Family Rental	2
Winfield Management	Family Rental	1
Future site - Municipally Sponsored 100% Affordable	Family Rental	6
TOTAL		36

¹⁰ Projected Growth Share Family Requirement: .5 (Units Addressing the Growth Share Obligation) or .5(155)= 77.5 or 78 units N.J.A.C. 5:97-3.9

¹¹ Growth Share Very Low Income Requirement: .13(Units Addressing the Growth Share Obligation) or .13(155)= 20.15 or 20 units N.J.S.A. 52:27D-329.1

Age-Restricted Maximum:¹² 48 Units

Development/Project Name	Type of Affordable Unit	# Units
Mirota expansion	Age-restricted Rental	48
TOTAL		48

Bonus Maximum:¹³ 48 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
Allies group homes (existing)	Rental	2
ARC group homes (existing)	Rental	1
Cal-Lime	Rental	2
Future site - Municipally Sponsored 100% Affordable	Rental	32
TOTAL		37

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Readington has issued certificates of occupancy for 78 housing units and also for the nonresidential square footage equivalent of 459 jobs, yielding an actual growth share obligation through September 30, 2008, of 44 affordable units.¹⁴

¹² Projected Growth Share Age Restricted Maximum: $.25(\text{Projected Growth Share})$ or $.25(192) = 48$ units
N.J.A.C. 5:97-3.10(c)2

¹³ Projected Bonus Maximum: $.25(\text{Projected Growth Share})$ or $.25(192) = 48$ units N.J.A.C. 5:97-3.20

¹⁴ The number of residential COs (78) is divided by 5 to yield 15.6 units and the number of jobs (459) is divided by 16 to yield 28.7 units. Readington's total estimated actual growth share is therefore 44 units (15.6+28.7). **Note:**

D. Summary of Plan to Address Fair Share Obligation

PRIOR ROUND SUMMARY

Prior Round Obligation: 394 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Allies Inc. group home I	2	Rental	2	4
	Allies Inc. group home II	3	Rental	3	6
	ARC group home I	3	Rental	3	6
	ARC group home II	2	Rental	2	4
	ARC group home III	2	Rental	2	4
	ARC group home IV	3	Rental	3	6
	Anderson House	6	Rental	6	12
	Lake Cushetunk Woods Inclusionary Development	68	-	-	68
	Whitehouse Estates Inclusionary Development	14	-	-	14
	Calio House	1	Rental	1	2
	ECHO units	4	-	-	4
	Mirota (Lutheran Social Ministries)	60	Age-restricted Rental	16	76
	Bound Brook RCA	57	-	-	57
	Carteret RCA	116	-	-	116
	Manville RCA	15	-	-	15
Subtotal		356		38	394
Proposed Mechanisms	N/A	-	-	-	-
Subtotal		-		-	-
TOTAL					394

this estimate does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

GROWTH SHARE SUMMARY

Projected Growth Share Obligation: 192 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Lake Cushetunk Woods Inclusionary Development surplus units	16	-	-	16
	Allies group home III	2	Rental	.50	2.50
	Allies group home IV	2	Rental	.50	2.50
	Allies group home V	2	Rental	.50	2.50
	Allies group home VI	2	Rental	.50	2.50
	ARC group home V	2	Rental	.50	2.50
	ARC group home VI	2	Rental	.50	2.50
Subtotal		28		3	31
Proposed Mechanisms	Allies group homes	14	-	-	14
	Market to Affordable Rental Program	10	-	-	10
	Extensions of Controls-Whitehouse Estates	10	-	-	10
	Winfield Management 100% Affordable Project	12	-	-	12
	Mirota Expansion - Municipally Sponsored 100% Affordable Project	48	-	-	48
	Cal-Lime - Municipally Sponsored 100% Affordable Project	4	Rental	2	6
	Future site - Municipally Sponsored 100% Affordable Project	32	Rental	32	64
Subtotal		130		34	164
TOTAL					195
Surplus					+3

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Readington's certified plan included a development fee ordinance that was approved by COAH on November 4, 1992, and adopted by the Township on May 17, 1993. Readington submitted a draft amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance was approved by COAH on August 4, 2009.

B. Third Round Spending Plan

Readington's prior round spending plans were approved by COAH on May 5, 1993 and November 6, 1996. A revised third round spending plan was submitted by Readington with the Township's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

Readington Township has an adopted affordable housing ordinance for its prior round obligation. Readington has submitted a revised draft affordable housing ordinance that comports with the requirements of the UHAC, which was amended on December 20, 2004. The draft proposed ordinance has also been amended to include compliance with barrier free sub-code of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

A resolution appointing a municipal housing liaison was adopted by the Township on September 5, 2006. A draft ordinance establishing the position of a municipal housing liaison was submitted by the Township and must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

Readington is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the Township and must designate an experienced administrative entity for that purpose. Readington has an in-house administrative agent who administers all of the Township's affordable units, except for the

units in Mirota and group homes. These programs are administered by the special needs providers or LSM (Mirota). Pursuant to N.J.A.C. 5:80-26.14(b),

D. Affirmative Marketing Plan

Readington has submitted an affirmative marketing plan. The affirmative marketing plan will be reviewed for conformance with the requirements of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., to ensure the units in the Township's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Township within 45 days of COAH's grant of substantive certification and submitted to COAH.

IV. SUMMARY OF OBJECTIONS AND MUNICIPAL RESPONSE

Ryland Developers, L.L.C.

COAH received one objection to the Readington Township Housing Element and Fair Share Plan, submitted by Art Bernard of Bernard & Nebenzahl, LLC on behalf of Ryland Developers, L.L.C. (Ryland). Ryland is the contract purchaser of Block 14, Lot 29.02 and 29.03. The site is 38.6 acres and is located on the westbound lane of Old Route 28, between Clark Road and Lamington Road.

Ryland submits that the parcel is suitable for the construction of affordable housing and they are ready, willing, and able to provide affordable housing. The property is in proximity to residential neighborhoods located on Lamington Road, Clark Road, and Valley View Road. Since the site is 38.6 acres, it is large enough to create a buffer between nearby single family homes and the 200 unit low rise luxury, multi-family community, proposed by Ryland. 40 of these units will be low and moderate income units. This property is also within a sewer service area and Ryland submits that there is ample water to service this proposed community.

Ryland submits that their objection may be resolved by negotiating an agreement that enables Ryland to construct 200 luxury multi-family units, including 40 low and moderate income units.

Absent an agreement, Ryland retains the following objections:

1. The Township has failed to demonstrate that the zoning in Readington will accommodate COAH's residential and non-residential projections.
2. The ECHO units in the Township's plan do not address the regional housing obligation.
3. The Township has not created a realistic opportunity for the extension of controls on affordability for 10 units within Whitehouse Estates.
4. Pursuant to recent Appellate court decisions and the lack of family housing in the Township's plan, COAH must rescind the waiver it granted Readington to provide extra credit for age restricted housing. Specifically, Ryland submits that the Appellate Division overturned a similar waiver granted in Howell Township and N.J.A.C. 5:94-4.19 et seq. which allowed municipalities to age restrict more than 25% of the municipal housing obligations. Therefore, Ryland urges COAH to revoke the waiver it granted from its "senior cap."
5. COAH must require Readington to accelerate the production of affordable family housing.
6. The Township has not created a realistic opportunity for the supportive living facilities proposed in its plan. In addition, COAH must determine the level of care within the proposed Anderson House to determine if the facility would be eligible for credit.
7. COAH must require the Township to demonstrate that it has the bonding capacity to subsidize all the housing in its plan.
8. The Readington Planning Board cannot bind the Township's Board of Adjustment to approve a use variance for 12 affordable units to Winfield Management in the Township's plan. The Township must adopt an alternative plan in case the use variance is never approved.
9. COAH has understated the Township's 1987 – 1999 and 1999 – 2018 housing obligations. COAH must recalculate the Readington Township housing obligation.

Ryland has had three meetings with Readington about rezoning this property. Ryland submits that its objections can be resolved by negotiating a rezoning of its properties.

Readington Township's response to Ryland's objection is attached to this report as Attachment 1.

V. MEDIATION

Mediation commenced on July 8, 2009 and concluded on July 8, 2009. This mediation ended without the parties reaching a settlement. A copy of the Mediation Report is attached as Attachment 2.

VI. RECOMMENDATION

COAH staff recommends that Readington Township be granted third round substantive certification. COAH staff also recommends approval of the waiver from COAH from N.J.A.C. 5:97-6.14(b)2 to allow the Township to receive up front credits toward the growth share obligation for an Extension of Expiring Controls Program. Readington must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. In addition, the agreement between Allies and Readington must be executed within 45 days after the grant of substantive certification and submitted to COAH.



Clarke Caton Hintz

Architects
Planners
Landscape Architects

Lucy Vandenberg
NJ Council on Affordable Housing
101 South Broad Street
PO Box 813
Trenton, NJ 08625-0813

April 23, 2009

**Re: Readington Township, Hunterdon County
Response to Objection**

Station Place
400 Sullivan Way
Trenton NJ 08628
clarkecatonhintz.com
Tel: 609 883 8383
Fax: 609 883 4044

Dear Ms. Vandenberg,

On behalf of Readington Township, Hunterdon County, we file these responses to the objections submitted by Ryland Developers, L.L.C. ("Ryland") to the Township's 2008 amended third round housing element and fair share plan. Ryland's objections, dated February 27, 2009, were prepared by Art Bernard, P.P. Readington Township's response is filed pursuant to the Council on Affordable Housing ("COAH") regulations at *N.J.A.C. 5:96-4.2*

This letter report will respond to each objection as listed below:

- Data correction - Mr. Bernard's chart on page 2 is incomplete. In addition to the affordable units listed in the chart on page 2 of the objections, the Township is also eligible for 38 total prior round rental bonuses.
- Ryland's Objection – Readington failed to demonstrate that its zoning will accommodate COAH's residential and non-residential projections.
Township Response – As stated in the adopted plan, Readington "expects to meet COAH's combined projections for household and job growth and the resulting affordable housing obligations during the third round (2004 through 2018)." The Township analyzed actual growth which had occurred after January 1, 2004, development application approvals and pending applications as well as potential future growth. On the basis of this review, the Township concluded that it expects to meet COAH's projections as stated in the Township's 2008 adopted and endorsed housing element and fair share plan.
- Ryland's Objection – ECHO units must be affirmatively marketed, have 20-year controls and comply with COAH's bedroom distribution.

John Clarke, FAIA
Philip Caton, FAICP
Carl Hintz, AICP, ASLA
John Hatch, AIA
George Hibbs, AIA
Brian Slaugh, AICP
Michael Sullivan, AICP



Clarke Caton Hintz

Township Response – ECHO units are modular self-contained units that are installed by the Township as accessory uses to pre-existing dwellings and are restricted to senior citizens and/or disabled residents who are related to the occupants of the principal dwelling. When the ECHO units are vacated they are removed from the property for use elsewhere as affordable housing. In the 1990's, Readington Township pioneered the development of ECHO housing units as an affordable housing resource in the state of New Jersey. Readington Township received specific authorization from COAH to utilize the Township's Housing Trust Fund for the acquisition of four ECHO units and has consistently received COAH new construction credit for these four units. These four ECHO units continue to be utilized in Readington Township to provide much needed housing for senior or disabled individuals or households. The ECHO units have provided affordable housing in the Township since 1991 - almost 20 years - and will remain as affordable housing options for the foreseeable future. Although the four ECHO units consist of 2 two-bedroom units and 2 one-bedroom units, the prior COAH-approved program is not subject to COAH's bedroom distribution requirements. Although COAH's regulations were eventually crafted to permit ECHO units to only address a rehabilitation obligation, COAH should continue to honor the previously granted new construction credits for the 4 existing ECHO units in the Township.

- Ryland's Objection – Readington has not created a realistic opportunity for extending controls on affordability on 10 existing affordable housing units.

Township Response – Readington Township has shown a realistic opportunity for extending controls on at least 10 of the 14 affordable family sale units in Whitehouse Estates because extensions on 2 units have already been approved by the Township and a third is in the works. The Township will request a waiver from COAH's requirement to have contracts with 10 homeowners at the time of petition. Such a waiver was granted to Lawrence Township as part of its substantive certification on April 8, 2009.

- Ryland's Objection – COAH should revoke a previously granted waiver on the number of eligible prior round age-restricted units.

Township Response – The objector is referring to a waiver which corrected a prior flaw in a COAH formula which calculated the number of eligible prior round age-restricted units. This waiver was previously granted by COAH to Readington and dozens of other municipalities in the second round. Simply put, the waiver from COAH was to create a fair playing field for calculating the maximum number of prior round age-restricted units for all municipalities



Clarke Caton Hintz

regardless of whether they entered into a prior round RCA or not. Thus, in the age-restricted formula in the second round rules at *N.J.A.C. 5:93-5.14(a)* – a municipality that had not entered into an RCA was required to subtract only rehabilitation credits to determine the maximum number of age-restricted units. However, if a municipality did enter into an RCA, they were required to subtract the entire rehabilitation component per *N.J.A.C. 5:93-6.1(b)1*. The COAH waiver permitted towns in the prior round that had entered into an RCA to subtract only rehabilitation credits, just like all other (non-RCA) municipalities. COAH should continue to honor this previously granted waiver as it was solely to create a level field for all municipalities across the state, not just Readington, and the Township has relied on COAH's waivers previously granted. Lastly, the Township would argue that the time period for an objector to challenge COAH's prior approval of the waiver has expired so this 'objection' is out of time.

- Ryland's Objection – The Township does not provide sufficient family affordable units.

Township Response – Readington Township's second round affordable housing plan was certified by COAH. New to COAH's third round regulations at *N.J.A.C. 5:97-3.9* is a requirement that "at least 50% of the units within the municipality addressing the growth share obligation shall be family housing units." Readington Township's 83-unit family obligation has been satisfied with the 16 prior round surplus units (family sale units at Lake Cushetunk Woods), the 10-unit market to affordable family rental program, the 10-unit extensions of expiring controls program at Whitehouse Estates (family sales), 12 family units at the Winfield development, the 4 family rentals at the Cal-Lime site and the 32 family rentals at the future municipally sponsored construction family rental site(s). All of the Township's proposed compliance mechanisms noted above address COAH's family housing requirement, thus negating this objection.

In response to the claim that the Township would only provide one-bedroom units as part of its market to affordable program, the Township relied on Readington's 2005 Plan's rental acquisition pro forma for the 2008 Plan's market to affordable rental program. The pro forma clearly shows the potential for one-, two-, and three-bedroom units which will serve a variety of family sizes.

Also, in response to the objector's claim that family units should be accelerated in the Township's plan, COAH should note that the Township has 16 existing third round family units at Lake Cushetunk Woods, Readington has begun to implement the 10-unit extensions of controls program, and the Township recently approved the 12-unit Winfield development. Therefore, the Township has almost addressed 50% of its family housing requirement within months of



Clarke Caton Hintz

petitioning, let alone by the first plan evaluation period within two years as required by COAH's plan evaluation requirements found at *N.J.A.C. 5:96-10.1*.

As noted, the Winfield development ('Cushetunk Manor') was approved on April 16, 2009 by the Readington Township Zoning Board of Adjustment. The Township worked with the applicant to provide an appropriate site layout for families with children. The site will include a landscaped, open space area of approximately 0.5 acres which will include a walking path, bench seating area, a small playground (with play equipment not yet finalized) as well as a picnic area with tables/benches and a permanent outdoor grill (see attached site layout). In addition, the stormwater system for the site will be located underground thus allowing for a lawn area for passive activities and lawn games. The Winfield – Cushetunk Manor site is surrounded by residences along both Haver Place and Central Avenue.

- Ryland's Objection – COAH should determine whether the proposed Anderson House may receive credit. The Township has not provided a realistic opportunity for any of the three supportive and special needs housing proposals (Anderson House, Allies, and ARC).

Township Response – The Township believes that a realistic opportunity has been provided for each of supportive and special needs housing proposals. Regarding Anderson House, the Township notes that the NJ Department of Human Services will license the proposed facility as a group home and, as such, should be eligible for credit pursuant to *N.J.A.C. 5:97-6.10* which states "Supportive and special needs housing includes, but is not limited to: ... group homes for people with developmental disabilities and mental illness as licensed and/or regulated by the New Jersey Department of Human Services."

Readington Township has executed agreements with each of the providers - Anderson House, Allies, and ARC – and the agreements set forth that COAH's requirements for affirmative marketing, affordability controls, etc. shall be addressed by each provider at each supportive and special needs housing.

In addition, the Township will help to fund the providers for each of the proposed supportive and special needs housing opportunities. It is reasonable to assume that each of these experienced supportive and special needs housing providers will receive other funds from outside sources such as the state's Special Needs Housing Trust Fund, County monies, and operational monies from the Department of Human Services through its various divisions. Anderson House, Allies, and ARC have existing supportive and special needs housing in Readington Township funded almost entirely from outside sources.



Clarke Caton Hintz

Thus based on past practices of these experienced supportive and special needs housing providers, the Township finds that a realistic opportunity has been provided for all of the proposed supportive and special needs housing.

- Ryland's Objection – The Township has failed to provide a realistic implementation schedule for the proposed affordable units.

Township Response – Readington's adopted 2008 plan includes an appropriate implementation schedule at Table 20. The Township believes that the future sites are spaced appropriately throughout the third round to enable the Township to address its actual growth share as it occurs throughout the third round.

- Ryland's Objection – The Township has not provided a realistic opportunity for the funding of the proposed affordable units.

Township Response – The Township's adopted spending plan sets forth reasonable costs either that the Township may be required to fund or that the Township will be looking for outside funding sources to provide affordable housing subsidies as listed in DCA's 'Guide to Affordable Housing Funding'. As noted above, it is reasonable for the Township to rely on the providers' and Township's past practice of accessing available outside funding subsidies through tax credits, HUD funding, Special Needs Housing Trust Fund monies, County HOME funds, Federal Home Loan Bank monies, etc. The Township has adopted a resolution of its intent to cover any shortfall of funds for its affordable housing program through bonding if necessary. The Township has sufficient bonding capacity to cover its affordable housing programs.

- Ryland's Objection – The Township should provide an alternative to the Winfield Management site if the site is not approved.

Township Response – On April 16th, the Township approved the site plan that includes 12 affordable family rentals. Therefore, this objection is moot.

- Ryland's Objection – The Township should include the developer's site – 38 acres behind and to the sides of the existing Ryland Inn site in the Township – Block 14/Lots 29.02 and 29.03. The site is suitable and would accommodate a total of 200 multi-family units of which 40 would be affordable family units.

Township Response – Readington Township believes that it has adopted and



Readington Township, Hunterdon County

April 23, 2009

Clarke Caton Hintz

petitioned COAH with a fully compliant third round housing element and fair share plan. The Township crafted its third round affordable housing plan with various COAH-eligible compliance mechanisms and as such did not desire to include the Ryland site for an inclusionary development.

- Ryland's Objection – Throughout the filed objections, the developer has challenged various COAH rules and COAH's third round methodology. **Township Response** – Readington has not addressed the developer's challenges to COAH's rules and third round methodology herein. In addition, the Township does not believe that such objections are valid issues for COAH mediation.

In summary, Readington Township adopted a third round plan that addresses its 1987-2018 affordable housing fair share obligation. Similar to the Township's prior round affordable housing efforts which resulted in a 16-unit surplus, Readington has also provided third round compliance mechanisms that will generate an 11-unit surplus. The Township has responded to the filed objections and finds that none of the objections change the Township's position that it has a fully compliant third round affordable housing plan. Lastly, Readington Township remains committed to implementing its currently adopted compliance plan.

Please let us know if you have any questions regarding the Township's response.

Sincerely,

Mary Beth Lonergan, PP, AICP

- c. COAH Service List
Art Bernard, P.P.
Mayor Julia Allen
Vita Mekovetz, Township Clerk
Linda Jacukowicz, Planning Board Secretary
Valerie Kimson, Esq., Planning Board Attorney
Sharon Dragan, Esq., Township Attorney
Michael Sullivan, ASLA, PP, AICP
Kathleen Grady, PP, AICP

W:\5000's\Readington\Township 300\300.1 Housing\2009 COAH issues\Readington response to objection 4.23.09.doc

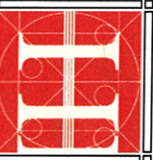


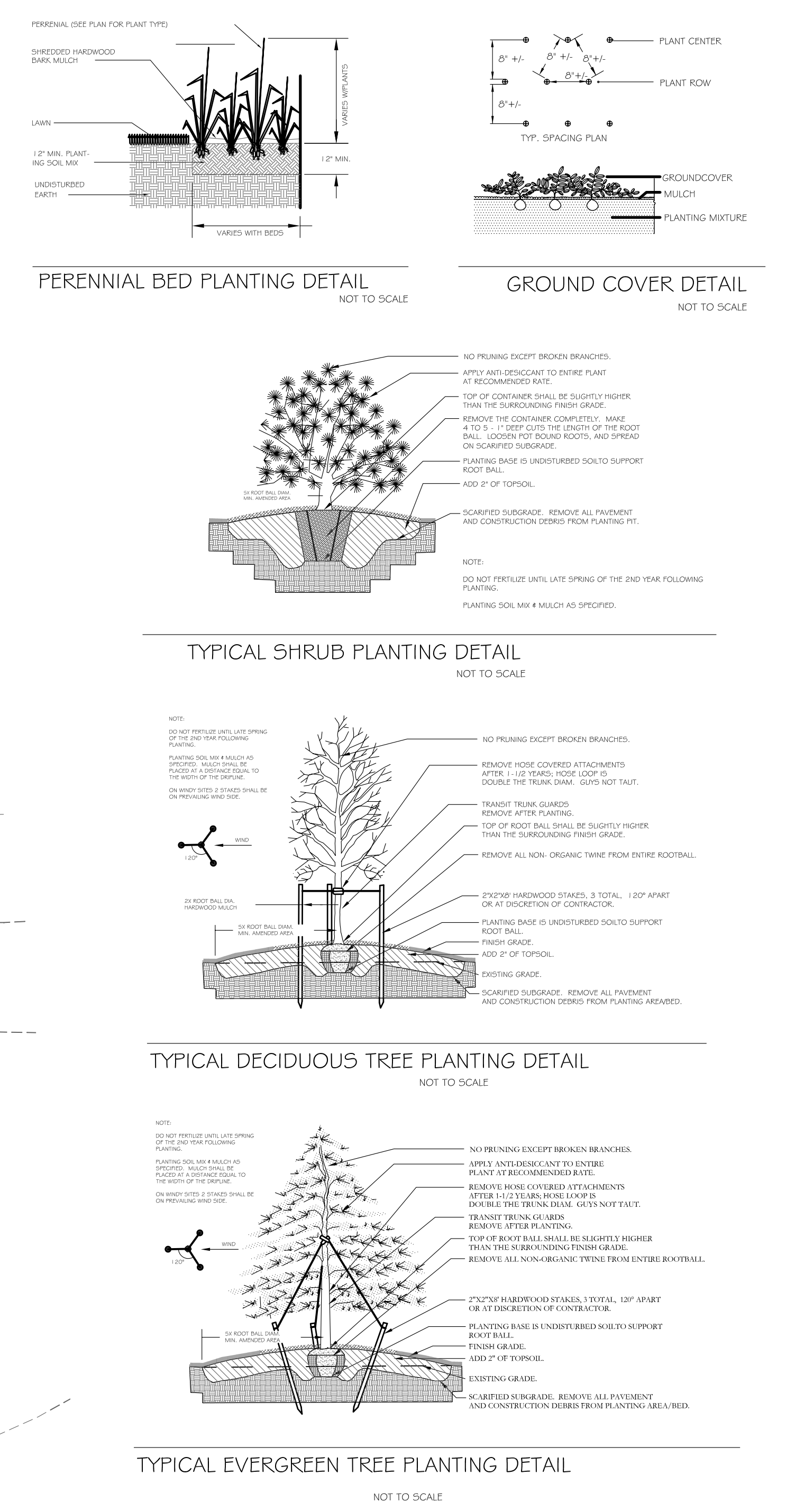
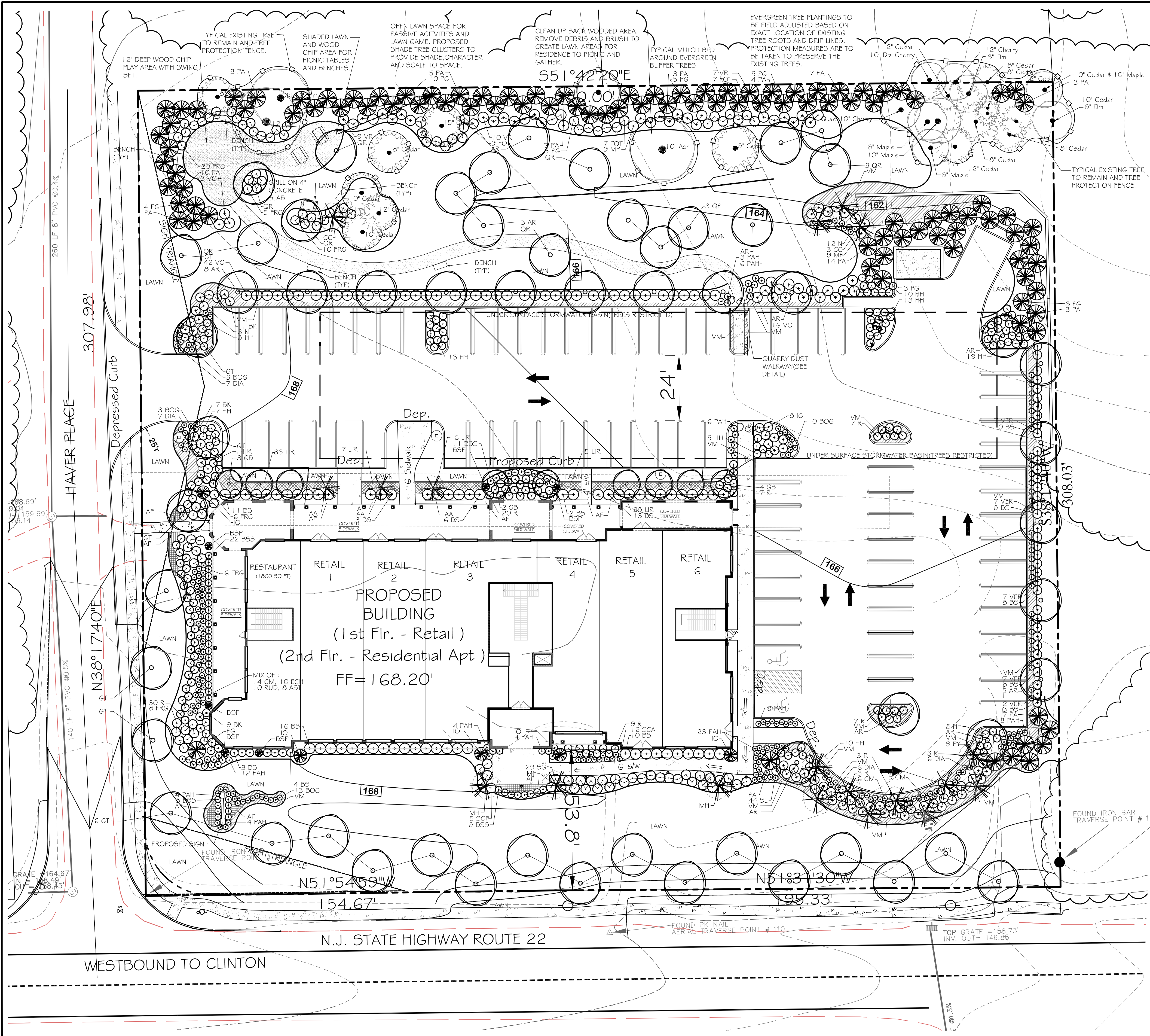
VIEW FROM ROUTE 22 EAST

WINFIELD MANAGEMENT CORPORATION

BLOCK: 8 LOT: 3, READINGTON TOWNSHIP, NJ

HILAND HALL TURNER ASSOCIATES ARCHITECTS 2 CLAREMONT ROAD BERNARDSVILLE, NEW JERSEY





PLANT LIST				
KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE
AA	3	AMELANCHIER CANADENSIS	SHADBLOW SERVICEBERRY	1.5" CAL. B#B (5-6')
AN	N/A	ANNUAL FLOWERS	ANNUAL FLOWERS	T.B.D.
AR	23	ACER RUBRUM 'OCTOBER GLORY'	OCTOBER GLORY RED MAPLE	1" GAL. CONT. B#B (8-10')
AST	8	ASTER x NOVAE-ANGIAE 'PURPLE DOME'	PURPLE DOME ASTER	1" GAL. CONT.
BOG	29	HELIOTRICHON SEMPERVIRENS	BLUE OAT GRASS	2" GAL. CONT.
BK	27	BUXUS KOREANA 'WINTER GEM'	WINTER GEM KOREAN BOXWOOD	18"-24" B#B
BS	105	BUXUS SEMPERVIRENS	AMERICAN BOXWOOD	24"-30" B#B
BSP	6	BUXUS SEMPERVIRENS 'PYRAMIDALIS'	PYRAMIDAL BOXWOOD	3' B#B
BSS	49	BUXUS MICROPHYLLA 'GREEN GEM'	GREEN GEM DWARF BOXWOOD	18"-24" (3 gal. cont.)
CC	4	CERCIS CANADENSIS 'FOREST PANSY'	FOREST PANSY RED BUD	1.5" CAL. B#B (5-6')
CM	30	LEUCANTHEMUM 'SNOW CAP'	SHASTY DAISY	1" GAL. CONT.
DIA	26	DIANTHUS 'ZING ROSE'	ZING ROSE	1" GAL. CONT.
ECH	10	ECHINACEA PURPUREA	PURPLE CONE FLOWER	18"-24" (3 GAL. CONT.)
FOT	23	FOTHERGILLA GARDENII	DWARF FOTHERGILLA	3 GAL. CONT.
FRG	55	CALAMAGROTIS x ACUTIFLORA 'KARL FOERSTER'	KARL FOERSTER FEATHER REED GRASS	1" GAL. CONT.
GB	9	GINKGO BILOBA	GINKGO TREE	2"-2.5" CAL. B#B (8-10')
GT	22	GLADISTIA TRICANTHOS INERMIN	THORNLESS HONEY LOCUST	2"-2.5" CAL. B#B (8-10')
HH	105	HYPERICUM HIDCOTE	ST. JOHN'S WORT	18"-24" (3 GAL. CONT.)
IG	8	ILEX GLABRA 'COMPACTA'	COMPACT INKBERRY HOLLY	18"-24" (3 GAL. CONT.)
IO	5	ILEX AQUIPERNY 'SAN JOSE'	SAN JOSE HOLLY	5'-6' B#B
LIR	89	LIROPE MUSCARI 'BIG BLUE'	BIG BLUE LILY TURF	1" GAL. CONT.
MH	3	MALLUS PRAIRIFIRE	PRAIRIE FIRE CRAB	1.5" CAL. B#B (8-10')
MP	18	MYRTICA PENNSYLVANICA	NORTHERN BAYBERRY	3'-4' B#B
N	15	NEPETA 'WALKERS LOW'	CATMINT	1" GAL. CONT.
PA	68	PICEA ABIES	NORWAY SPRUCE	4'-5' B#B
PAH	80	PENNISETUM ALOPECUROIDES 'HAMLIN'	DWARF FOUNTAIN GRASS	2" GAL. CONT.
PG	41	PICEA PUNGENS 'GLAUCA'	COLORADO BLUE SPRUCE	4'-5' B#B
PY	9	PRUNUS YEDOENSIS	YOSHINO CHERRY	1.5" CAL. B#B (8-10')
QR	3	QUERCUS PALUSTRIS	PIN OAK	2"-2.5" CAL. B#B (8-10')
QR	3	QUERCUS RUBRUM	RE OAK	18"-24" (3 GAL. CONT.)
R	103	ROSA MEDILAND	RED MEDILAND SHRUB ROSE	18"-24" (3 GAL. CONT.)
RUD	10	RUDBECKIA FULDIGA SULLIVANTI	BLACKEYE SUSAN	1" GAL. CONT.
SCA	12	SCABIOSA	PIN CUSHION FLOWER	1" GAL. CONT.
SGF	34	SPIREA BUMALDA 'GOLDFLAME'	GOLD FLAME SPIREA	18"-24" (3 GAL. CONT.)
SL	44	PRUNUS SKIPKANENSIS	SKIP LAUREL	3'-4" B#B
VC	54	VIBURNUM CARLISI	KOREAN SPICE VIBURNUM	3' B#B
VER	37	VERONICA SPICATA 'SUNNY BORDER BLUE'	SUNNY BORDER BLUE SPEEDWELL	1" GAL. CONT.
VM	2900	VINCA MINOR	PERWINKLE	2" 1/4" PLUG
VR	26	VIBURNUM RHYTIDOPHYLLUM	LEATHERLEAF VIBURNUM	4' B#B

908.823.3330
FAX 3331
GARDENASSOCIATES.COM
3470 Rt. 22 West
Somersville, NJ 08876
David M. Chewy
CLA # AS0748

CUSHETUNK MANOR
BLOCK: 8 LOT: 3
READINGTON TOWNSHIP, NJ
HUNTERDON COUNTY

Revised 5-5-16: Sign detail added.
Revised 11-11-16: Revised as per township review letter dated 10-10-16.
Revised 1-10-17: Revised as per township review letter and revised engineers plans.
Revised 2-9-17: Revised as per township site plan review letter dated 2-2-17.
Checked By: DMC Drawn By: DAS

Revisions

Plan: Landscape Plan

Scale: 1"=20'

14/19
Date: April 2018

MEDIATION REPORT
Readington Township/Hunterdon County
By
Pamela E. Gellert
COAH Mediator
August 24, 2009

On July 8, 2009 mediation was held between representatives for Readington Township (“Readington” or the “Township”) and Ryland Developers, LLC, an objector to Readington’s Third Round Affordable Housing plan as filed with the New Jersey Council on Affordable Housing (“COAH” or the “Council”). Appearing on behalf of the Township were Valerie Kimson, Esq., Planning Board Attorney, Mary Beth Lonergan, PP, AICP, Michael Sullivan, PP, AICP, Mayor Julia Allen, and Cheryl Filler. Appearing for Ryland were William Savo, Esq., Art Bernard, PP, Andy Nowak and Anatol Hiller. One mediation session was held on July 8, 2009. At the time, Ryland requested that mediation be kept open for a limited time in order to give the parties a chance to informally discuss possible development options for Ryland’s property and to afford Ryland some additional time to determine if legal action, either by way of COAH motion or filing in the Superior Court, would be pursued. To date, no motion has been received and COAH requested that mediation be closed if the parties were not negotiating.¹

BACKGROUND

Readington Township received second round certification from the Council and is currently addressing its prior round obligation of 394 units through this previously certified plan. Ryland has objected to certain aspects of the Township’s prior round plan wherein COAH previously granted credits and waivers of its rules in regard to certain ECHO units and the age-restricted cap limitations. However, prior to mediation, COAH staff advised that these waivers

¹ Although at the time of writing this report, no motion or complaint have yet been filed, counsel for Ryland explains that a complaint in lieu of prerogative writ is forthcoming in which Ryland will challenge the Township’s rezoning of its property. As COAH does not have jurisdiction over the rezoning of Ryland’s property, it therefore seeks to proceed with its process and allow affordable housing to continue to be created in Readington. In addition, Ryland’s counsel advises that it will also be filing a motion with COAH requesting that no further action be taken on Readington’s plan pending the resolution of its zoning challenge in court. However, as COAH has requested that the mediation in this matter be concluded and an appropriate report generated, this report will summarize and conclude the mediation proceedings in this matter.

and credits would be allowed to remain in place if the Township was in compliance with its second round plan. As it appears that the Township is currently compliant with that plan, these issues with the second round plan were not the subject of this mediation.

The Township has a projected growth share obligation for the third round of 192 units. The Township's plan proposes several mechanisms to address this obligation. Ryland objects to the Township's use of several of these affordable housing mechanisms.

OBJECTIONS AND RESPONSES

Ryland asserts that Readington has not demonstrated that its zoning will meet COAH's growth projections. The Township disputes this allegation and explains that its affordable housing plan provides a plan to meet the expected growth.

Ryland also claims that the Township's plan does not provide a realistic opportunity for the extension of expiring controls on affordability for ten units sought by the Township's plan in the Whitehouse Estates development. In response, the Township notes that it seeks a waiver of COAH's rules regarding extending expiring affordability controls, and also points out that two approvals to extend these controls have already been obtained, and a third is currently in the process. The waiver of COAH's rules in this regard is an issue which will be determined by COAH directly and therefore not the subject of mediation.

Ryland also took issue with a 100% affordable development known as the Winfield Development in the Township's plan, stating that Readington should have proposed an alternative in the event that certain approvals were not granted. As approvals have since been granted on this development, this objection has now been mooted.

In addition, Ryland also objected to the use of Anderson House, a new transitional living facility providing supportive and special needs housing, in the Township's affordable housing plan. Although COAH staff's review of the plan indicated that Anderson House could no longer receive affordable housing credit under COAH's third round rules, the Township has indicated that it may seek a waiver from COAH on this point. If such a waiver request is made, it would not be subject to mediation.

Another issue raised by Ryland's objection centers on the amount and timing of affordable, family housing units proposed by the Township's plan. In response, Readington points out that it will meet its obligation to provide such units through the following mechanisms in its plan:

- 16 unit surplus from the prior round at the Lake Cushetunk Woods development
- 10 units from the extension of expiring controls
- 12 units at the Winfield development

- 4 units at the Cal-Lime site (a municipally sponsored development)
- 32 units at a future municipal construction site

Ryland also submits that the Township does not have sufficient funding or bonding capacity to support the mechanisms proposed by its affordable housing plan. The Township has stated that it does have sufficient funding and/or bonding capacity to support its plan, and further points out the availability of other outside funding sources.

Finally, Ryland also asserts that COAH has understated the Township's third round obligation; however, as COAH does not provide for mediation of its rules, this objection was not addressed in the mediation.

ISSUES AT MEDIATION

The main issues discussed at mediation involved the Township's ability to meet its obligation to provide affordable housing opportunities for low and moderate income families, in particular, the 32 affordable rental units (and corresponding 32 rental bonuses) proposed by the Township's future municipal construction project. This municipal construction project was a site about which COAH staff had requested additional information. At the time of mediation, Readington's representatives were communicating with COAH staff in order to provide the information requested. In addition, the ability of Ryland's site to provide a proposed 40 units of affordable housing was also a topic of discussion in the mediation.

At mediation, Readington maintained its position that it has provided COAH with a fully compliant affordable housing plan addressing its entire third round obligation and, therefore, need not be required to include the Ryland site as a part of that plan. In addition, the Township noted that the zoning was recently changed on the Ryland site, such that the proposed 200 unit project (including 40 affordable units) would not be realistic on that site. Indeed, the recent rezoning of Ryland's property was an issue of contention for the objector. The zoning on Ryland's property (as well as other sites within the Township) was changed two days prior to this mediation. As such, Ryland indicated that additional time would be needed to determine what, if any, legal action would be pursued in regard to this rezoning. As noted above, to date, no motion has been filed with COAH or the Superior Court of New Jersey.

In response to COAH's request for additional information on its municipal construction project, the Township submits that it has agreed to accelerate the implementation of this project, and has provided a revised construction schedule for that project showing that construction will begin on this project in 2013 and a site acquired by December 2009. COAH must review the additional information provided by the Township and determine whether the project provides a realistic opportunity for the creation of 32 affordable family units.

MEDIATION OUTCOME

The mediation in this matter did not result in a settlement and the mediator does not believe that further mediation would result in a settlement being reached. At this point, Readington is confident that its plan has met its affordable housing obligation and will receive COAH certification without inclusion of the objecting party's property. In addition, Ryland is on the verge of filing a legal challenge of the Township's rezoning of its property. As such, it is quite unlikely that the parties will come to any settlement at this time. Nonetheless, the mediator does not feel that there are any outstanding issues of material fact which require referral to the Office of Administrative Law. In addition, COAH seeks to conclude with mediation so it can proceed with its process and allow affordable housing to be created in Readington. Rather, the outstanding issue here requires COAH's review and determination as to whether the Township's plan meets its obligation and should therefore receive COAH certification. In addition, it appears that if a motion is submitted to COAH, it will review the motion request at that time.

As noted previously, there are some aspects of Readington's plan which seek waiver of COAH's rules and, therefore, must be reviewed and judged separately by COAH, and thus were not the subject of mediation. Other objections to Readington's plan by Ryland were either made moot or otherwise not ripe for mediation as COAH has specifically said such issues should not be the subject of its mediation process. Therefore, the remaining issues in mediation really centered on the Township's ability to meet its obligation to provide affordable family housing. Again, COAH must determine whether the Township's plan appropriately addresses this obligation. This determination will be made as COAH staff continues to review the Township's entire plan and the additional information provided by the Township.

**COAH REPORT IN RESPONSE TO COMMENTS
RECEIVED REGARDING COMPLIANCE REPORT
READINGTON TOWNSHIP/ HUNTERDON COUNTY
REGION #3
October 5, 2009**

During the 45-day objection period, Art Bernard, P.P. of Bernard & Nebenzahl, LLC on behalf of Ryland Developers, L.L.C. (Ryland) submitted an objection to COAH regarding Readington Township's Housing Element and Fair Share Plan. Ryland is the contract purchaser of Block 14, Lot 29.02 and 29.03. The site is 38.6 acres and is located on the westbound lane of Old Route 28, between Clark Road and Lamington Road.

The objection focused on the Township's Housing Element and Fair Share Plan and how Ryland believes that the plan does not provide a realistic opportunity for affordable housing. Ryland submitted that their objection may be resolved by negotiating an agreement that enables Ryland to construct 200 luxury multi-family units, including 40 low and moderate income units. A COAH Pre-mediation Report Requesting Additional Information was issued on April 29, 2009. Mediation commenced on July 8, 2009 and concluded on July 8, 2009. The Township submitted all the requested information detailed in the report. A COAH Compliance and Mediation Report were issued on August 24, 2009.

During the 14-day comment period following the receipt of Readington Township's Compliance Report, one comment was received from Darren J. Leotti, Esq., of Mauro, Savo, Camerino & Grant, P.A., on behalf of Ryland. The comments do not alter the Compliance Report.

Ryland's Comments

On September 16, 2009, Ryland submitted comments to COAH on Readington's Housing Element and Fair Share Plan. Ryland maintains that the Mediation Report and recommendations of COAH staff in the Compliance Report are erroneous in that they do not recognize the issues of material fact and deficiencies in Readington's Housing Element and Fair Share Plan. Ryland provides the following comments:

1. The Township has failed to demonstrate that existing zoning or planned changes in zoning will accommodate the projected growth on which the Fair Share Plan is based,

pursuant to N.J.A.C. 5:97-2.1(a). Ryland maintains that the most recent zoning changes on the part of Readington are designed to prevent the construction of residences and non-residential structures from which growth would occur. Ryland points to a recent Appellate Division decision, Tp of Readington v. Solberg Aviation Co., 976 A. 2d 1100, 2009 N.J. Super. LEXIS 205 (2009), as supporting its contention that Readington's zoning changes are aimed to prevent the construction of residential and non-residential structures.

2. There is inadequate documentation to support a finding that the methods proposed by the Township in its Fair Share Plan provide a reasonable opportunity for affordable housing. Ryland states that Readington has not provided enough documentation for its Market to Affordable or Extension of Expiring Controls Programs. Ryland states that it could not find a multiple listing service on COAH's website with the Township's Housing Element and Fair Share Plan or checklists, and that a multiple listing service does not demonstrate proof of available inventory of one, two and three bedroom units at the projected price nor the ability to bond for the shortfall. Ryland maintains that the Extension of Expiring Controls Program is not realistic, because the Township has not demonstrated that there is even an agreement in-principle for more than two of the 14 units at Whitehouse Estates. Ryland maintains that the property owners would not be willing to extend because they would earn a substantive profit if the controls were allowed to expire.
3. Irregularities in the petition process have prevented the objector from participating as required under the rules. Ryland argues that N.J.A.C. 5:97-3.7 requires that all submissions to COAH regarding a petition for substantive certification must be served upon any persons or entities on the service list. Ryland maintains that documents pertaining to the 32-unit municipally sponsored project and the waiver for the Extensions of Expiring Controls were not copied to the service list. Moreover, Ryland maintains that the waiver for the Extensions of Expiring Controls Program was not made by motion served upon Ryland as is delineated in COAH's procedural rules. Therefore, Ryland states that it did not have an opportunity to respond to the request.

COAH's Response

1. Readington stated in its response to the objection dated April 23, 2009, and in its adopted Fair Share Plan that "Readington expects to meet COAH's combined projections for household and job growth and the resulting affordable housing obligations during the third round (2004 through 2018)." The Township indicates that it had analyzed actual growth which had occurred after January 1, 2004, development application approvals and pending applications as well as potential future growth. On the basis of this review, the Township concluded that it expects to meet COAH's projections as stated in the Township's 2008 adopted and endorsed Housing Element and Fair Share Plan. Readington's Fair Share Plan is consistent with COAH's regulations as it plans for the projected growth share obligation that is derived from the household and employment growth projection provided by COAH in Appendix F. Furthermore, the Readington v. Solberg Aviation Co. case was an appeal challenging a condemnation judgment of a portion of the Solberg Aviation Co.'s property and is not applicable to the COAH issues at hand. Ryland does not demonstrate how the case impacts the Fair Share Plan or that Readington is trying to prevent all future residential and non-residential growth in the Township.
2. During the completeness review of the Township's petition, Readington provided a multiple listing service for its Market to Affordable Program in addition to other documentation that were needed in order for COAH to deem the petition complete (January 15, 2009). COAH is not required to provide all documents related to a petition for substantive certification on its website. The Housing Elements and Fair Share Plans and related documentation on COAH's website are a courtesy and are clearly not the sole source of information about the plans that are before COAH. As such, the objector's professionals are aware that this information regarding Readington's plan was available at the municipal offices and COAH's offices for review when the 45-day objection period began. In addition, the multiple listing service was discussed in the Pre-mediation Report. With regard to the funding for the Market to Affordable Program, the Township has provided a spending plan and has adopted a resolution of its intent to cover any shortfall of funds for its affordable housing programs through bonding if necessary. The

Township indicated in its April 23, 2009 response to the objectors that it has sufficient bonding capacity to cover its affordable housing programs. In addition, pursuant to N.J.A.C. 5:97-6.9(c), market to affordable units are exempt from the bedroom distribution requirements; and therefore the municipality is not required to demonstrate an available inventory of one, two and three bedroom units.

On April 20, 2009, Readington submitted a waiver from N.J.A.C. 5:97-6.14(b)2 for the Extensions of Expiring Controls Program. This waiver request was copied to Readington's service list. Ryland's professionals are on Readington's service list. In addition, COAH's Pre-mediation Report Requesting Additional Information discussed the waiver request and noted that the waiver would be heard by a task force. Ryland did not provide a response to the waiver request from the Township nor the Pre-mediation Report issued by COAH. Ryland was provided with a 14-day comment period to comment on the Compliance and Mediation Reports, in which Ryland did provide comments on the Extensions of Expiring Controls Program. In addition, it is not unusual for a Township to request a waiver by letter either with its petition or during the petition review process. N.J.A.C. 5:97-15.1 provides that "such a waiver may be requested as part of a municipal petition, by motion in conformance with N.J.A.C. 5:96-13, or in such other form as the Council may determine, consistent with this chapter". Furthermore, Ryland's assertion that the property owners of Whitehouse Estates will not agree to the extension of expiring controls is an assumption. Extension of expiring controls on affordable units are currently taking place in many municipalities, including Lawrence Township in Mercer, Holmdel Township in Monmouth, and Tinton Falls Borough in Monmouth. Lawrence Township also received an extension of expiring controls waiver with its third round substantive certification. At the time of its third round substantive certification in April 2009, Lawrence had already extended 41 out of 96 affordable units. In addition, Readington is not requesting credit for all 14 units at Whitehouse Estates. The Township is only requesting credit for 10 of the 14, of which two have already been extended. Therefore, it is not an excessive amount of units for which the Township is requesting up-front credit. In addition, the Township is providing a large subsidy and

rehabilitation amount to the homeowner to make the program realistic. The COAH task force reviewed the waiver request and recommended its approval.

3. N.J.A.C. 5:97-3.7 does not require that all submissions to COAH regarding a petition for substantive certification be served upon any persons or entities on the service list. N.J.A.C. 5:97-3.7 provides a description of what persons or entities should be on the service list. As stated above, all documentation related to the petition is available at the municipal offices and COAH's offices for review. Nonetheless, Ryland's planner was copied on the e-mail of the Township's June 29, 2009 response to the Pre-mediation Report, which provided additional information on the 32-unit municipally sponsored project. In addition, Ryland was provided with a 14-day comment period to respond to the Compliance and Mediation Report where it could have provided comments on the 32-unit municipally sponsored project. However, Ryland did not provide comments on the 32-unit municipally sponsored project in its September 16, 2009 response to the Compliance Report. In addition, if COAH were to provide the service list with a comment period every time a municipality submitted a piece of documentation to COAH, the COAH review process would be significantly delayed, and as a result, the construction of affordable housing would suffer.

Therefore, as discussed in the COAH Compliance Report, Readington's plan comports with COAH regulations.